



Public Comment on the *Report on the Criteria and Methodology for Determining the Eligibility of Candidate Countries for Millennium Challenge Account Assistance in FY'07*

Submitted by

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The Coalition Against Counterfeiting and Piracy (CACCP), organized by the United States Chamber of Commerce (The Chamber), the world's largest business federation, representing more than three million businesses of every size, sector, and region, submits this public comment on the *Report on the Criteria and Methodology for Determining the Eligibility of Candidate Countries for Millennium Challenge Account Assistance in fiscal Year 2007*. CACP, which is comprised of 200 trade associations and companies, has been focused on finding solutions to the ever-increasing adverse economic effects arising from the theft of intellectual property rights around the globe.

The MCC is dedicated to assisting in the creation of viable business environments that foster continued healthy and sustainable economic growth in developing countries. CACP supports the MCC in assisting developing countries become a part of the global economic system by promoting business, entrepreneurship and international trade. The international system is moving toward stronger intellectual property rights (IPRs), which is not surprising when viewed in the context of economic globalization. In the global economy, the creation of knowledge in the form of intellectual assets is increasingly essential for commercialization and economic growth.

In today's complex global business environment, identifying, registering, protecting and enforcing intellectual property rights (IPRs) has become one of the key drivers of business competitiveness in international trade. Intellectual property is an important tool necessary to compete in today's global markets, but exploiting and protecting IP is often overly difficult or impossible in many countries that lack a solid understanding of the role IPRs can have in supporting healthy economic development. As developing countries continue implementing multilateral, regional and bilateral treaties containing integral intellectual property terms, appropriate capacity building will be crucial if these countries are to effectively use intellectual property as a tool in the pursuit of their economic development goals.

Societies have assigned specific property rights to intellectual property for hundreds of years. IPRs have some resemblance to ownership rights over physical property or land, but instead cover intangible property. However, knowledge is more than simply an intellectual property; knowledge is embodied in people's expertise and entrepreneurial spirit, in research institutions and in new technologies, and is often considered to be a major engine of economic growth.¹ Trade in high technology goods and services which are knowledge-intensive, and where IP protection is most common, tends to be among the fastest-growing in international trade.²

Emerging countries have a strong and growing interest in attracting trade, foreign direct investment, and technological expertise. Doing so brings valuable investment into the country and with it the expertise and technical training needed to create a competitive economic structure. Therefore, developing countries will benefit from having a healthy set of IP laws and being sufficiently capable of enforcing those laws. Without adequate IP laws and enforcement capabilities, many developing countries have become

¹ The exact role of knowledge and technical change has been a matter of debate amongst economists, but this is the dominant view. For a non-technical discussion of the debate see World Bank (1999) "*World Development Report 1998/99: Knowledge for Development*", World Bank, Washington DC, pp.18-22. Source: <http://www.worldbank.org/wdr/wdr98/>

² Maskus, K. (2000a) "*Intellectual Property Rights in the Global Economy*", Institute for International Economics, Washington DC, pp.73-79.



havens for counterfeiters and IP pirates, and the impact on both the local and global economy is substantial.

The Dark Side of Globalization: The Growth of IP-Related Crimes

The hard facts are these: counterfeiting and piracy cost the U.S. economy \$250 billion per year, a total of 750,000 American jobs, and poses a real threat to consumer health and safety. Bad as the damage is to the American economy, the global plague of IP-cheats threatens to undermine legitimate and necessary efforts in economic development for vulnerable developing countries that may see copying and counterfeiting as a legitimate money-making enterprise or who are bullied by powerful criminal gangs.

Though economic globalization and liberalization have been a positive for the global economy, there also exists a dark side in the form of counterfeiting, piracy and organized crime. Counterfeiting and piracy have been stated to account for 7 to 8 percent of world trade and cost businesses billion of dollars annually.³ In 2003, The World Intellectual Property Organization placed the cost to businesses at nearly 450 Billion Euros (\$575 Billion).⁴ Sales of pirated CDs accounted for nearly 28% of this total.⁵ Counterfeiting and piracy are much more than the problem of downloading music and movies from the internet. Counterfeiting and piracy are about the trade in fake goods, car parts, toys and pharmaceuticals, and the problem has spread to nearly every area of the economy. Ten percent of all prescription drugs sold globally are counterfeit (including drugs that counter HIV/AIDS). And most worrisome, counterfeiting and piracy have been linked to organized crime and even terrorism.

Counterfeiters and pirates, wherever they operate, exploit the lack of laws, inaction on the part of local authorities, and the general lack of knowledge and legal expertise when tackling IP-related criminal activity. Economic globalization and the expansion of international trade have facilitated the emergence of structured and organized counterfeiting networks that operate across international borders. It is these organized criminal gangs that can afford setting up of distribution channels capable of the transshipment of counterfeited and pirated goods into the market. Factories producing counterfeit goods increasingly are being found in developing countries (e.g. China, Thailand, Turkey, Morocco and across Eurasia and the former USSR). Counterfeiting operations have become highly structured and include obvious ties to organized criminal gangs, money laundering and terrorism.

Counterfeiting is extremely profitable. A counterfeit item can often be sold at the same price as the original, for high demand fake fashion, or readily available at knock-down prices for quicker sales. Often it is the lack of adequate enforcement by customs officials, police and judges, many of whom are not adequately trained in this area of the law, who allow counterfeiting to flourish. In light of the profits to be made, and the lack of enforcement or slap-on-the-wrist approach of many judges faced with such cases, the counterfeiters see imposed fines as merely a cost of doing business. The lack of deterrence of the penalties therefore explains the steadily increasing attraction of this illegal activity. While trafficking in illegal illicit narcotics may warrant a criminal a hefty prison sentence, trafficking in counterfeit prescription drugs poses far less risk with similar financial rewards.

In short, counterfeiting is an extremely attractive means for criminals to make large profits while facing little risk of imprisonment. Organized crime syndicates taking advantage of economies of scale have now made counterfeiting and piracy a major component of their activities; by taking advantage of experts specializing in production, logistics, wholesaling and distributing to the consumers, these syndicates have clearly made counterfeiting and piracy the crime of the 21st century.

Important Steps for Combating Counterfeiters and Pirates – Assisting Developing Countries

³ OECD report on the economic effects of counterfeiting, 1998.

⁴ "World Customs Organisation tells World Economic Forum of concern at the scale of global counterfeiting," WCO press release, 27 January 2003.

⁵ Music Piracy Report 2002, IFPI



In order to keep counterfeiters and pirates from exploiting developing countries, healthy IP systems must be developed and law enforcement officials and judges must be properly trained. It is vital to develop inter-state cooperation and understanding of why IP laws are necessary and why IP counterfeiters and pirates must be stopped. Once counterfeiters gain a foothold within a country, they do more damage than simply steal IP. These organized crime syndicates keep governments from collecting needed tax revenue from trade, foster an environment rife with corruption, and create a harmful international perception of the country thereby deterring future trade and scaring off potential investors.

By linking stronger IP laws to international development funds, the MCC can take great strides in ending this corrupting and destabilizing force. Developing countries will have the incentive needed to make positive changes and develop a healthy IP system with trained officers able to properly enforce the law. Where countries lack such an IP infrastructure, it is important that technical assistance be provided at the earliest opportunity so a framework can be in place necessary to reap the benefits of stronger IP laws and deter organized crime from gaining a foothold in the country. That is why CACP supports the inclusion of an IP component to the MCC Country Selection Indicators.

Thank you for the opportunity to provide this public comment.

Sincerely,

A handwritten signature in dark ink, appearing to read "Paul Fox", is positioned above the printed name.

Paul Fox
Chairman
Coalition Against Counterfeiting and Piracy

Member Organizations

Associations

Advanced Medical Technology Association (ADVAMED)
AeA, Advancing the Business of Technology (AeA)
Aerospace Industries Association (AIA)
Alliance of Automobile Manufacturers (AAM)
AmCham Argentina
American Apparel & Footwear Association (AAFA)
American Association of Exporters and Importers (AAEI)
American Council of Independent Laboratories (ACIL)
American Intellectual Property Lawyers Association (AIPLA)
American Made Alliance
American Society of Association Executives (ASAE)
Art Copyright Coalition
Association for Competitive Technology (ACT)
Association of Equipment Manufacturers (AEM)
Automotive Aftermarket Industry Association (AAIA)
Brand Protection Alliance
Business Software Alliance (BSA)
Center for Health Transformation (CHT)
Computer Technology Industry Association (CompTIA)
Consumer Electronics Association (CEA)



Electronic Industries Alliance (EIA)
Entertainment Software Association (ESA)
European American Business Council (EABC)
Food Marketing Institute (FMI)
Gas Appliance Manufacturers Association (GAMA)
Global Business Leaders Alliance Against Counterfeiting (GBLAAC)
Greeting Card Association (GCA)
Grocery Manufacturers of America (GMA)
Healthcare Distribution Management Association (HDMA)
Intellectual Property Owners Association (IPO)
International Anti-Counterfeiting Coalition (IACC)
International Association of Amusement Parks and Attractions (IAAPA)
International Association for Exhibition Management (IAEM)
International Communications Industries Association (ICIA)
International Federation of Phonographic Industries (IFPI)
International Housewares Association (IHA)
International Trademark Association (INTA)
Institute for Policy Innovation
Kenan Institute of Private Enterprise
Mississippi Manufacturers Association
Motion Picture Association of American (MPAA)
Motor & Equipment Manufacturers Association (MEMA)
Motorcycle Industry Council (MIC)
National Association of Manufacturers (NAM)
National Electrical Manufacturers Association (NEMA)
National Marine Manufacturers Association (NMMA)
Outdoor Power Equipment Institute (OPEI)
Pharmaceutical Research and Manufacturers of America (PhRMA)
Precision Metalforming Association (PMA)
Recording Industry Association of America (RIAA)
Rubber Manufacturers Association (RMA)
SGS Global Trade Solutions, Incorporated (SGS)
Society of the Plastics Industry, Inc. (SPI)
Software and Information Industry Association (SIIA)
Specialty Equipment Market Association (SEMA)
Toy Industry Association (TIA)
U.S. Consumer Product and Safety Commission
U.S. Council for International Business (USCIB)
Vision Council of America (VCA)



Businesses

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ACCU-BREAK Pharmaceuticals, Inc.
Acucote Inc.
AIG Consultants, Inc.
AIM Global
All to Success
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Altria Group, Inc.
AMCO Plastic Materials, Inc.
American Banknote Holographics, Inc.
American Standard Companies, Inc.
Amgen Inc.
Analysis Research Planning Consulting (ARPC)
Aplicor Inc.
ARmark Authentication Technologies
Ashton-Potter (USA) Ltd.
Authentix, Inc.
Baker & Hostetler LLP
Baker & McKenzie LLP
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Bradley, Andrew, Christopher, & Kaye
Brady Corporation
The Brand Protection Alliance, LLC
Brand Protection Ltd.
British American Tobacco
BuzzeoPDMA, a division of Dendrite International
C&M International, LTD
Center for Medicines in the Public Interest
Coach, Inc.
Corporate Express Document & Print Management
CropLife International
CTP, Inc.
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De La Rue Security Print Inc.
Democracy Data & Communications (DDC)
Diligence USA, LLC
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Businesses (continued)

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GenuOne, Inc.
Gillette
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Global IP Counselors, LLP
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Identco
Infragard
InfraTrac
Internet Law Group
Imaging Supplies Coalition
IntegriChain
Intel Corporation
I-OnAsia Ltd.
Johnson & Johnson
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KRE8IT Video Productions
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Mary Kay, Inc.
MarkMonitor
Molecular Isotope Technologies, LLC
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Nelson Mullins Riley & Scarborough, LLP
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Property Rights Alliance
QP Semiconductor Inc.
The Reagan Group LLC
Reconnaissance International, Ltd.
Reebok International, Ltd.
RF Commerce, LLC
Robert Branand International
Rock-Tenn Company
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Schreiner Group – GmbH & Co. KG
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Securitas Global
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Businesses (continued)

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Xerox Corporation
Yottamark, Inc.
Zippo Manufacturing Company